IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 31ST MAY 2007 / 10TH JYAISHTA 1929

WP(C).No. 10790 of 2007(H)

OS.120/1996 OF MUNSIFF COURT, NADAPURAM.

PETITIONERS:

1. **V.P.SUDHEER, S/O.LAKSHMAN,**
   VALAYAM AMSOM, CHERUVOTH DESOM, P.O.VALAYAM,
   VADAKARA TALUK, KOZHIKODE DISTRICT.

2. **V.P.SOORAJ, S/O..LAKSHMAN,**
   VALAYAM AMSOM, CHERUVOTH DESOM, P.O.VALAYAM,
   VADAKARA TALUK, KOZHIKODE DISTRICT.

3. **V.P.SUJEESH, S/O..LAKSHMAN,**
   VALAYAM AMSOM, CHERUVOTH DESOM, P.O.VALAYAM,
   VADAKARA TALUK, KOZHIKODE DISTRICT.

BY ADV. SRI.C.VALSALAN,
SRI.K.RAKESH ROSHAN,
SMT.THUSHARA.V.

RESPONDENTS:

1. **ACHUTHAN, S/O.MATHU,**
   VALAYAM AMSOM, CHERUVOTH DESOM, P.O.VALAYAM,
   VADAKARA TALUK, KOZHIKODE DISTRICT.

2. **POCKY, D/O.MATHU,**
   VALAYAM AMSOM, CHERUVOTH DESOM, P.O.VALAYAM,
   VADAKARA TALUK, KOZHIKODE DISTRICT.

BY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 31/05/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.10790/2007:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE NOTICE DTD. 17/02/2007.

EXT.P.2: COPY OF THE COVER CONTAINING NOTICE DTD. 17/02/2007 WITH POSTAL SEAL ON 23/02/2007.

EXT.P.3: COPY OF THE ORDER DTD. 27/02/2007.

//TRUE COPY//

prv.

M.N. KRISHNAN, J.

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W.P.(C) No. 10790 OF 2007 h
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Dated this the 31st May, 2007

J U D G M E N T

This writ petition is filed challenging the order passed by the Land Tribunal as Ext. P3 in a suit pending before the Munsiff's Court, Nadapuram. A question of tenancy arose and the matter was referred to the Land Tribunal for adjudication on the question of tenancy. It was numbered as Referred Case No. 9 of 2003 by the Land Tribunal and it had entered into a finding that defendants 1, 3 and 4 are entitled to have fixity of tenure in relation to the property. Section 125 of the Kerala Land Reforms Act deals with the reference. Under Section 125(4), the Land Tribunal shall decide the question referred to it under sub-section (3) and return the records together with its decision to the civil court. The civil court shall then proceed to decide the suit or other proceedings accepting the decision of the Land Tribunal on the question referred to it. The decision of the Land

Tribunal on the question referred to it shall, for the purpose of appeal, be deemed to be part of the finding of the civil court. So, the order passed by the Tribunal on reference is finding on an issue which becomes part and parcel of a civil court judgment and therefore the order under reference cannot be challenged directly before any authority, but it shall be only challenged in appeal when an appeal is preferred against the judgment and decree of the civil court. A Division Bench of this Court in the decision reported in ***Mohammed v. Musthaffa*** (1978 KLT 168) has held that "No writ petition in the matter would lie at this stage in view of the fact that the decision of the Land Tribunal will form part of the findings of the Munsiff's Court in its judgment in the original suit." This Court also had held that no revision will lie against a finding recorded by the Land Tribunal on a reference made by Civil Court u/s. 125(3) of Land Reforms Act (***Kallianikutty Amma v. Govindan Nair*** (1981 KLT 560). So these decisions clearly lay down the position of law.

Therefore, this writ petition lacks merits and therefore is dismissed.

M.N. KRISHNAN
JUDGE

jan/